

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FRANCESCO GALLO,

Plaintiff,

-against-

ALITALIA – LINEE AEREE ITALIANE –  
SOCIETA PER AZIONI, PIERANDREA GALLI,  
and GIULIO LIBUTTI,

Defendants.

Case No. 07-CV-06418 (CM) (RLE)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE THAT upon the accompanying Declaration of Alan M. Koral, Esq., dated July 25, 2008, the accompanying Memorandum of Law, and all the papers and proceedings heretofore had herein, defendants Alitalia - Linee Aeree Italiane S.p.A., Pierandrea Galli, and Giulio Libutti (collectively, “Defendants”), by their attorneys, will move this Court, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., New York, New York, Courtroom 21B, before the Hon. Colleen McMahon, for an Order excluding the Affidavit of Nunzia Fatica Gallo submitted by plaintiff Francesco Gallo (“Plaintiff”) in opposition to the Defendants’ Motion for Summary Judgment, on the grounds that its submission is untimely and that permission to deviate from the Court’s scheduling orders has neither been sought nor obtained by Plaintiff, awarding Defendants their reasonable costs and disbursements incurred on this motion, and granting such other and further relief as the Court may deem just and proper. Defendants will further move this Court, in the alternative, for an Order, pursuant to Federal Rule of Civil Procedure 56(e)(1), permitting Defendants to take the affiant’s deposition and to file a supplemental biref addressing such deposition and the Affidavit.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Individual Practices of Judge McMahon, opposing papers, if any, shall be filed no later than August 8, 2008, and the Defendants' reply papers, if any, shall be filed no later than August 15, 2008.

Dated: New York, New York  
July 25, 2008

VEDDER PRICE, P.C.

By: /s/ Alan M. Koral

Alan M. Koral (AK 1503)

Charles S. Caranicas (CC 9244)

Attorneys for Defendants

*Alitalia - Linee Aeree Italiane S.p.A.,  
Pierandrea Galli, and Giulio Libutti*

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(212) 407-7700

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**CERTIFICATE OF SERVICE**

I, Alan M. Koral, hereby declare, pursuant to 28 U.S.C. 1746, under penalty of perjury, that on July 25, 2008, I caused a copy of the foregoing **NOTICE OF MOTION** to be served upon Plaintiff by electronically filing same, thereby ensuring that Plaintiff's attorney, Derek T. Smith, Esq. of Akin & Smith, LLC, received same because he is a registered e-filer and registered to receive e-notices in this case.

DATED: July 25, 2008

s/ Alan M. Koral \_\_\_\_\_

Alan M. Koral